

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>LAKE VIEW WOODY CREEK, LLC,</p> <p>v.</p> <p>Respondent:</p> <p>PITKIN COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 52724</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 7, 2010, Louesa Maricle and MaryKay Kelley presiding. Petitioner was represented by Gordon S. Gordon, Esq. Respondent was represented by Christopher G. Seldin, Esq. Petitioner is protesting the 2009 classification and actual value of the subject property.

Dockets 52724 and 52727 were consolidated for purposes of the hearing only.

Subject property is described as follows:

**Stranahan-Wells Exemption, Lot 1, Woody Creek, Colorado
Pitkin County Schedule No. R003848**

The subject property is a vacant 18.62 acre parcel. Salvation Ditch bisects the parcel.

Petitioners are requesting agricultural classification. Respondent assigned a value of \$2,900,000.00 for the subject property for tax year 2009 based on vacant land classification.

Petitioner's witness, Anthony Henden Yerkovich, a principal of the corporation, described the subject's location as adjacent to Lot 2, the improved subject of Docket 52727. He argued that a tree farm lies on the improved parcel, qualifying it for agricultural classification, that the subject's Salvation Ditch water rights provide irrigation for the tree farm, and that the contiguous nature of the vacant parcel adds to the support for agricultural classification.

Respondent's witness, Lawrence C. Fite, described the subject parcel as having residential zoning and tremendous development potential. Highest and best use is for a single family residence.

Respondent presented a value of \$2,900,000.00 for the subject property based on the market approach. Mr. Fite presented five comparable sales ranging in sale price from \$2,250,000.00 to \$4,310,000.00 and in size from 2.5 to 37.91 acres. After adjustments were made, the sales ranged from \$2,789,100.00 to \$3,232,500.00.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly classified and valued for tax year 2009.

Petitioner's appeal for the subject parcel was based on its relationship with Lot 2 (Docket 52727) for which a requested agricultural classification was based on the existence of a tree farm. Because neither probative testimony nor evidence was presented to convince the Board that a change in classification was warranted, residential classification was upheld for Lot 2.

The Board is not convinced of a relationship between the two parcels. Lot 2 is residentially improved acreage with a small tree farm (residential classification) while the subject lot is vacant land. The two lots are independent entities.

The subject parcel was not used as a farm or ranch on the assessment date or during the previous two years and does not meet statutory requirements for agricultural classification per § 39-1-102(1.6)(a)(I), C.R.S. Neither contiguity to a residential parcel nor having an irrigation source is qualification for agricultural classification.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

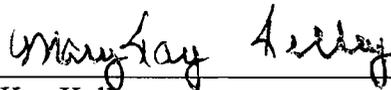
Section 39-8-108(2), C.R.S.

DATED and MAILED this 17 day of December 2010.

BOARD OF ASSESSMENT APPEALS

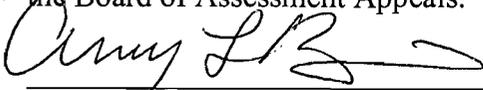


Louesa Maricle



MaryKay Kelley

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.



Amy Bruins

